

2 February 1982

MEMORANDUM FOR : James N. Glerum
Director of Personnel

STAT FROM :
Deputy Director of Personnel for
Policy, Analysis and Evaluation

SUBJECT : Employees Accompanying Spouses to Other
Geographic Areas (Short Title: Spouse LWOP
Program)

1. In accordance with a recommendation of the Task Force on Married Couples, approved in April 1980 by the then DDCI, we have concluded a review of the Spouse Leave Without Pay Program (LWOP) for the period April 1980 through March 1981. The report of our findings is contained in the attachment, as are six recommendations concerning the program. This paper has been reviewed within OP by the branches in CPD, SPD, and ID which are involved in this program in any way.

2. Our basic conclusion is that the program is functioning smoothly. However, the long-range effects cannot now be evaluated because only two of the 29 employees who accompanied their spouses have returned to Headquarters. Both were reinstated in staff status at their previous grade level in their original Career Service, but in a job different from the one occupied prior to their departure. In our conversations with several component Personnel Officers, we were urged to consider any procedure which would reduce paperwork and the aggravation that persists as a result of perceived unfair, or "second-class citizen," treatment.

3. Those urgings, coupled with the changes in the mechanical and procedural systems outlined in the attachment, prompted the recommendations made in paragraphs C1f, C2d, C3e, C4e(2), C5e, and C6 of the attachment:

(a) that the requirement that the accompanying spouse complete a trial period (of whatever length) in order to be eligible for this program be retained; (b) that the 90-day LWOP provision be dropped if retention of staff status is approved; (c) that employees accompanying spouses to other geographic areas convert to "When Actually Employed" (WAE) status as staff employees if no position is expected to be available upon their arrival at the new post

STAT (d) that the current "maximum" 52-month absence be modified to allow additional periods of absence following not less than two years full-time service in the primary occupation at Headquarters; (e) that the Career Service commitment to reinstate the

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accompanying spouse at the grade level held prior to departure apply to the 52-month period and to any approved additional absence, but not to an absence not endorsed by the Career Service (it is appropriate to note here that we do not have unanimous agreement within OP on this issue--one member believes the employee should be terminated if the Career Service does not approve an absence beyond 52 months unless there is some benefit to the Agency to maintain the relationship); and (f) that certain other current provisions be retained.

4. As we are recommending a major change in a major program (although it affects a relatively small number of employees), we believe a discussion with you and review by the Personnel Management Advisory Board would be useful before proceeding further.

Attachment

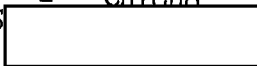


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Distribution:

Orig & 1 - Addsee
1 - ea. CPD, SPD, ID
1 - Spouse LWOP file
1 - Chrono

OP/P&PS



(12/10/81)
(02/02/82)

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)
Employees Accompanying Spouses to Other Geographic
Areas (Short Title: Spouse LWOP Program)

26 March (PMAB)

FROM:
Chief, Policy and Programs Staff/OP
1006 Ames

EXTENSION

NO.

DATE 2 February 1982

TO: (Officer designation, room number, and
building)

DATE

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom
to whom. Draw a line across column after each comment.)

RECEIVED

FORWARDED

1. DD/OP/PA&E
1006 Ames

for
VPS

A long time coming, I know,
but finally a report on Spouse LWOP
program. I felt it important to do
a comprehensive review of all aspects
since I've been involved in it (and
the complaints and problems about
it) for years as a result of
counselling, approving actions,
etc. Unless you have any objection,
I'd like to ask to
review this and provide any input
he has since he was instrumental
in some of the changes in the
current program.

2.

3. EA/D/OP
5E58 Hqs

4.

5.

DD/OP

6.

7.

D/OP

8.

9.

10. C/P&PS
1006 Ames

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15.

Report and Recommendations Concerning the Spouse LWOP Program

A. Background

1. This report has been prepared in accordance with a DDCI approved recommendation of the Task Force on Married Couples that the Office of Personnel report to the DDA on the status of the Spouse Leave Without Pay (LWOP) Program one year after its inception.

2. Current Agency policy regarding staff employees accompanying spouses to other geographic areas was approved by the then DDCI on 3 April 1980



3. Under this Program, a staff employee accompanying an Agency spouse to a permanent change of station outside the Headquarters area is granted 90 days' LWOP following the expiration of accrued annual leave. If a position, staff or contract, is not identified prior to the expiration of the 90 days' LWOP, he or she is converted to "When Actually Employed" (WAE) contract status. The field may use the contract to employ the spouse at any time, subject to Headquarters' prior approval of the proposed rate of pay and the work to be performed. Upon return PCS to the Headquarters area, and provided that no more than 52 consecutive months have elapsed, the employee is restored to staff status in the same Career Service and at the same grade level held prior to departure, although not necessarily to the same position.

4. In addition to reviewing the operation of the Program during its first year, we considered the issues that have been raised recently:

(a) the requirement that the accompanying spouse successfully complete the trial period in order to be eligible for this Program and (b) the possibility

of these employees retaining staff status. Flowing from (b) was (c) reconsideration of the need to continue the LWOP provision; (d) reconsideration of the 52-month limitation; and (e) review of the Career Service commitment for reinstatement.

B. Status

1. During the first year of the new Program, ☐ staff employees ☐ accompanied their spouses on PCS assignments outside the Headquarters area ☐ of these ☐ employees, ☐ went on LWOP after the expiration of accrued annual leave, and ☐ went directly from staff status to WAE contract status.

2. Of the ☐ who went on LWOP, ☐ were given staff jobs at their grade level before or at the expiration of the 90 days' LWOP. ☐ others were converted to contract status before the LWOP expired, and given jobs. Of the remainder, ☐ returned to Headquarters, ☐ is still on unexpired LWOP, and ☐ were converted to WAE contract status upon the expiration of LWOP.

3. Of the ☐ employees on WAE contract, at least ☐ were in a pay status at one time or another.

4. Both employees who returned to Headquarters were reinstated in staff status at their previous grade level in their original Career Service, but in a job different from the one occupied prior to departure.

5. From the foregoing, it appears that the Program is working as intended. The long-range effects cannot be evaluated, however, since experience in one critical aspect--the return to Headquarters--is lacking.

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C. Discussion

1. Completion of Trial Period as an Eligibility Requirement

STAT a. The requirement that the employee requesting LWOP to accompany an Agency spouse to a [] PCS assignment must have completed the entire three-year trial period was approved by the Director of Personnel in December 1980. With proper justification, this requirement may be waived by the Director of Personnel.

b. Our files record neither specific discussion nor controversy about this provision. Presumably, it was believed to be a logical position, given the purpose of the trial period. Completion of the trial period, with the attendant security review, should help screen out any potential problem cases, especially since later handling of problems overseas can be difficult. Chief, Special Activities Staff, advises that "very few" employees are terminated during either the first year, or the first three years, of employment, although some problems are surfacing now via the reinvestigation program. Of those separations occurring during a trial period, more have been based on conduct than on performance.

STAT c. From the start of FY 1981 through 31 July 1981, [] staff employees were assigned overseas prior to completion of their trial period [] with less than one year of service, and an additional [] with one to three years' service). []

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d. The arguments for retaining the requirement that the trial period be completed are:

- Successful completion implies the absence of performance or suitability problems.
- The danger of suitability/performance problems later surfacing overseas is reduced.
- The Director of Personnel has the authority to make an exception when justified.

e. The arguments against retaining the trial-period requirement are:

- It discriminates against spouses, since sponsors do not have to meet the same trial-period requirement prior to overseas assignment.
- To date, apparently no problems have surfaced with the fairly large number of those assigned overseas in 1981 who have not completed the trial period.
- Making exceptions can leave an impression of unfair application of the policy, since employees usually have no way of knowing why waivers are granted.

f. Recommendation

We believe the current policy provides for a minimal performance/suitability record for most employees going overseas; and that completion of the trial-period requirement should be retained. However, the wording should be changed to "trial period" rather than "three-year trial period," since we can waive part of this requirement on direct transfer to the Agency from another Government Agency and, thus, all trial periods are not necessarily three years.

2. Use of LWOP

a. Since the inception of the Program in 1972, LWOP has been either the primary mechanism for accommodating the sponsor's Agency spouse; or, in the current version, a part of the Program. The change from the original three years of LWOP to the current 90 days with conversion to WAE contract status upon expiration of the LWOP was made partly in response to the continuing expressions of concern of a number of employees about the fairness of this Program. The LWOP provision has provided some benefits to both employees and the Agency, but more dollar costs to the Agency. The employees gained time credit towards retirement, with no contributions to the fund, for up to six months in each calendar year of LWOP. In addition, those who had individual (as opposed to family) coverage by FEGLI and/or health insurance, were covered with no premium payments for 365 calendar days in LWOP status. (The 1982 changes to the Federal Employee Health Benefits Program have overtaken this "benefit" as employees in LWOP status beyond 30 days are now required to continue paying their portion of the premium.) The Agency gained by being spared the costs of processing resignations, clearances, and (re) appointment actions; and, in addition, contributed somewhat to some improvement of the morale of employees who earlier were "forced" to resign to accompany their employee-spouse to field assignments.

b. At the same time, the employee's relationship with the Agency was maintained while in LWOP status, and time was available to locate an assignment, or for one to develop, if these did not occur prior to the employee's departure for overseas. Returning the employee to duty as a staff employee from LWOP at any time was relatively simple: it took one personnel action.

c. If the recommendation being proposed in paragraph 3 is approved, however, retaining the 90-day LWOP provision before converting to WAE status becomes a more cumbersome procedure. This is because it would then take two personnel actions to accomplish the end result rather than the one it will take to convert directly to WAE status.

d. Recommendation

We believe the need to simplify the handling of this Program and to alleviate other perceptions of unfairness that have been more obvious than the retirement credit benefit outweigh the potential negative reaction to dropping a provision that provides a small benefit to a small number of employees. Thus, we recommend that the provision for 90 days LWOP be dropped if the recommendation for retention of staff status is approved. Returning a staff employee to regular employment status from WAE status is as simple a process as returning to duty from LWOP: one personnel action is required.

3. Retention of Staff Status

a. This issue has been a sore point for many years. Our previous objection to accompanying spouses retaining staff status was based on several points: (1) the difficulty in changing a staff employee's grade, should he or she serve at a lower grade while overseas--historically, such actions are processed as "change to lower grade" which, even though not a true adverse action in these circumstances, tends to create a negative impression in the employee's file; (2) the potential for overpayment (and the resultant requirement for an employee refund) if the employee serves at a lower grade and there is a delay in processing the required paperwork, and (3) the "simplicity" of the contract system, prior to PERSIGN, that required only a contract amendment for Payroll to effect a pay change.

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b. Despite the fact that "resignation" from staff status for the purpose of this Program is, in many cases, a personal trauma to those who must go through it (even though it is primarily a paper exercise), the foregoing objections to retention of staff status were believed to outweigh the negative reaction of a small number of employees to being required to "resign."

c. Our research shows, however, that there now may be no valid reasons why such employees cannot retain staff status; for instance:

- ° The processing of contract grade changes now requires more paperwork than does the staff system. (OF/Payroll must have both a Form 1150 and a contract amendment in order to process a pay change for a contract employee. Only a Form 1150 is needed for routine staff pay changes.)
- ° Because of this, the potential for overpayment when Duty Status Reports (DSRs) reach Payroll before a Form 1150 does is greater for contract employees than for staff employees. (Payroll pays the last officially recorded grade and salary when a DSR is received.)
- ° The use of the terminology "pay adjustment" on the 1150 to accomplish a downward grade change during employment under this Program should alleviate the negative impression given by a "change to lower grade" action.

d. A possible obstacle to retention of staff status may be

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e. Recommendation

In view of the foregoing, it is recommended that staff employees accompanying their spouses to assignments retain their staff status and convert directly from regular to WAE status unless

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The conversion to WAE would be at the employee's current grade and grade changes occurring while in this status would be accomplished by a "Pay Adjustment" Personnel Action.

4. Length of Absence from Headquarters to Accompany a Spouse

a. The current program limits the time the accompanying spouse may be absent from Headquarters to a "maximum" of 52 months. Our files do not contain specific details regarding the composition of this length of time but there is an indication that four years was "tied to the new tour lengths," that absence beyond that point raised the specter of a potential loss of skills, and that four months was added later to allow for home leave between and after two two-year tours. The possibility of subsequent absences beyond 52 months seems to be out of the question based on the use of the word "maximum." In reality, however, we can expect future requests for additional absences, especially perhaps from staff spouses of Commo employees, and thus believe the point deserves attention at this time.

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b. For both the clerical and professional employee who works minimally, or not at all, or at some different occupation, for some length of time, the concern about loss of skills in the primary occupation is a legitimate one. The point at which this is a fact rather than a speculation is open for debate; however, about four years seems reasonable, although it is not empirically documented.

c. Fifty-two months accommodates nicely two back-to-back two-year tours with home leave. It also accommodates two separated two-year tours, one two-year tour, one three-year tour, two 18-month tours, or one four-year tour, all with home leave. It does not accommodate two three-year tours and probably does not accommodate some combinations of extended basic tours or lateral transfers involving differing tour lengths.

d. It is, perhaps, unrealistic for management not to expect requests for additional periods of absence, especially in the face of all the economic factors which dictate an increasing need for both marriage partners to be employed. At the same time, it is perhaps just as unrealistic for employees to expect unlimited management accommodation and support of their personal preferences. However, it seems prudent at this time to provide a routine way to deal with the issue of requests for additional periods of absence beyond 52 months without the often agonizing and time-consuming process of justifications, reviews, exceptions, etc.

e. Recommendation

(1) In the belief that the original reasons for limiting the length of absence are valid, it is recommended that the 52-month limitation

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be modified in the manner explained in the remainder of this paragraph. We suggest that additional periods of absence should be available following the accompanying spouse's full-time employment at Headquarters in the parent Career Service for a specified period (e.g., not less than two years). These additional absences would be limited to the specific length of the sponsor's scheduled tour plus home leave, agreed to in advance of departure for the post. Extensions of this additional period to accommodate extended tours or lateral transfers would require Career Service justification to the Director of Personnel. Such justification must provide evidence of thorough consideration of the total length of the accompanying spouse's absence from his or her primary occupation and parent Career Service; the kind and quality of work performed if any at the previous overseas post, or potentially to be performed at the next post; and the value to the Career Service.

(2) The Career Service should have the option to not approve requests for absences beyond 52 months, ~~without fearing threats of grievances or cries of discrimination from employees~~. We believe strongly that, with evidence of thorough and empathetic consideration of the employee's needs in conjunction with the needs of the service, management's responsibility to maintain a staff to accomplish its mission must prevail in the event of a dispute or complaint. In an instance where the Career Service cannot approve a request for absence beyond 52 months, the employee would have the options to not accompany the spouse, to resign, or to convert to reserve staff WAE status with no guarantee of reinstatement. We had considered proposing that the employee convert to contract WAE status at this

point primarily to be able to have control of the length of time spent in this status. However, converting to reserve staff appointment status is believed to be a better approach for the same reasons proposed in paragraph C3: (a) a resignation is not necessary as the employee retains staff status, thus one of the current aggravations is removed; (b) less paperwork is involved in the conversion, reconversion and for any periods of work performed during WAE status which would involve changes in grade; (c) a "not-to-exceed" (NTE) date is established which will allow monitoring of the length of the absence.

5. Career Service Commitment to Reinstate the Accompanying Spouse

a. The current program includes a commitment that the parent Career Service will reinstate the employee in staff status at the same grade level held prior to departure although not necessarily in the same position. This principle remains valid but is addressed here as a special point in view of the recommendations being made in the preceding paragraphs concerning retention of staff status and additional absences beyond 52 months.

b. Although reinstatement to staff status no longer will be an issue if retention of staff status is approved, a Career Service commitment to return the accompanying spouse to active service at the grade level held prior to departure, although not necessarily in the same position, should be retained for the basic 52-month period.

c. If the recommendation for an additional period of absence following a period of active service at Headquarters is approved, a Career

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Service commitment to return the employee to active service at the grade level held prior to departure should also apply. (It seems logical that approval by the Career Service of an additional period of absence beyond 52 months implies an endorsement of the employee's value and the Career Service's desire to retain the employee.)

d. In the event the Career Service does not approve a request for an additional absence beyond the basic 52 months, and the employee elects to convert to WAE reserve status, it logically follows that the Career Service should have no commitment for reinstatement of the employee following that absence. In such an instance, the employee who wishes to return to active service upon completion of the WAE reserve period of absence, could seek an assignment through Staff Personnel Division, with every effort made to locate a suitable one at the grade held prior to departure. This undoubtedly will be a difficult provision to sell; however, it is probably unreasonable to expect a Career Service to be responsible for an employee whose request for additional absence beyond 52 months was not approved, and who then selects a course of action which removes him- or herself from active employment with that Career Service.

e. Recommendation

Giving due consideration to both employee and management needs and prerogatives, it is recommended that the Career Service commitment to provide employment for the accompanying spouse at the grade held prior to departure apply to both the "basic" 52-month period, and any approved additional period following a specified period of Headquarters service (not less than two years is proposed in this paper). It is recommended further

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that the Career Service not be obligated to reemploy the accompanying spouse if an additional period of absence is disapproved and the spouse elects an option that interrupts his or her active employment with the Career Service.

6. Other Provisions

The following remaining provisions of the current program are considered still valid and it is recommended that they be retained.

- a. That the employee sign a memorandum of understanding prior to departure. (Current form to be revised.)
- b. That, to insure consistent application, Headquarters approval of the proposed rate of pay and schedule of work be obtained expeditiously when the WAE employee is employed.
- c. That priority consideration be given accompanying spouses for vacancies at a new location when transferring laterally.
- d. That the employee be required to return to duty within 60 days after returning to Headquarters.
- e. That the parent component at Headquarters retain jurisdiction of the employee.
- f. That comparative evaluation be suspended at the point after which no performance appraisal is available for the employee in the performance of his or her regular occupational specialty.
- g. That changes of Career Service cognizance may occur if all parties agree.